

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WANDERLYN CHAPPLE,)
)
Plaintiff,) CIVIL ACTION FILE NO.
)
v.)
)
DEUTZ CORPORATION,)
)
Defendant.)

NOTICE OF REMOVAL

COMES NOW DEUTZ Corporation and, pursuant to 28 U.S.C. §§ 1331, 1367, 1441 and 1446, gives notice of the removal of this civil action from the Magistrate Court of Fulton County, State of Georgia, to the United States District Court for the Northern District of Georgia, Atlanta Division and shows the following:

1.

On or about June 22, 2023, Plaintiff Wanderlyn Chapple (“Plaintiff” or “Chapple”) filed a Statement of Claim in the Magistrate Court of Fulton County, State of Georgia, Case No. 23MS186065, against Defendant DEUTZ Corporation (“Defendant” or “DEUTZ”) alleging a cause of action against Defendant for breach of contract and unpaid wages.

2.

On July 6, 2023, Plaintiff filed a “Supporting Documentation” with the Magistrate Court clarifying that she alleges that Defendant deprived Plaintiff of wages in violation of the Fair Labor Standards Act (“FSLA”). This action is still pending.

3.

DEUTZ was served with the Statement of Claim on June 26, 2023 and the Supporting Documentation on or about July 6, 2023, so this Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b).

4.

Pursuant to 28 U.S.C. § 1446(a), a copy of the Statement of Claim and the Supporting Documentation are attached as **Exhibit A** and constitutes all process, pleadings, and orders served on DEUTZ in the Fulton County Magistrate Court to date. DEUTZ has not made an appearance in that action as of this filing.

5.

As provided under 28 U.S.C. § 1331, the district courts have removal jurisdiction over “[a]ny civil action of which the district courts of the United States have original jurisdiction under the Constitution, treaties or laws of the United States.”

6.

In the instant case, federal question jurisdiction arises from Plaintiff's alleged cause of action against Defendant for violating the Fair Labor Standards Act ("FSLA"). DEUTZ is therefore removing this case pursuant to 28 U.S.C. § 1331 (federal question jurisdiction), which provides this Court with original jurisdiction, as required by 28 U.S.C. § 1441(b). Plaintiff's breach of contract claim is likewise removable pursuant to 28 U.S.C. § 1337(a), over which this Court has supplemental jurisdiction.

7.

Fulton County, Georgia is one of the counties comprising the Atlanta Division of the Northern District of Georgia. Since this action was originally filed in the Magistrate Court of Fulton County, Georgia, venue is proper in the Atlanta Division of the United States District Court of the Northern District of Georgia, in accordance with 28 U.S.C. § 1446(a).

8.

Contemporaneous to this filing, DEUTZ is sending written notice to Plaintiff, a copy of which is attached as **Exhibit B**, and is filing a Notice of Filing of Notice of Removal with the Magistrate Court of Fulton County, Georgia pursuant to 28 U.S.C. § 1446(d), a copy of which is attached as **Exhibit C**.

Respectfully submitted this **24th** day of July 2023.

**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.**

/s/ David E. Gevertz

David E. Gevertz, Esq.
Georgia Bar No. 292430
3414 Peachtree Road, NE, Suite 1500
Atlanta, Georgia 30326-1164
Phone: 404-221-6512
Fax: 678-406-8816
dgevertz@bakerdonelson.com

*Counsel for Defendant
DEUTZ Corporation*

CERTIFICATE OF COMPLIANCE

Undersigned counsel certifies the foregoing document has been prepared with one of the font and point selections (Times New Roman, 14 point) approved by the court in local rule 5.1(C) and 7.1(D).

Respectfully submitted this 24th day of July 2023.

**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.**

/s/ David E. Gevertz
David E. Gevertz, Esq.
Georgia Bar No. 292430
dgevertz@bakerdonelson.com

*Counsel for Defendant
DEUTZ Corporation*

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed a copy of the foregoing *Notice of Removal* with the Clerk of Court using the Court's ECF system which will automatically send notification to all counsel of record.

Additionally, I certify that on this date I served a copy of the foregoing *Notice of Removal* via electronic mail and First-Class U.S. Mail, postage prepaid, addressed as follows:

Wanderlyn Chapple
2997 Cobb Pkwy SE #725306
Atlanta, GA 31139
wanderlynchapple@aol.com

Respectfully submitted this 24th day of July 2023.

**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.**

/s/ David E. Gevertz
David E. Gevertz, Esq.
Georgia Bar No. 292430
dgevertz@bakerdonelson.com

*Counsel for Defendant
DEUTZ Corporation*

EXHIBIT A

STATE OF GEORGIA

Wanderlyn Chapple

2997 Cobb Pkwy SE #725306

Atlanta, GA 31139

810-610-5545

wanderlynchapple@aol.com

Plaintiff(s) Name, Address, Phone, Email Address vs.

DEUTZ Corporation 3883 Steve Reynolds Blvd., Norcross, GA
30093 770-564-7100 Raluca.Rojneal@deutz.com

Defendant(s) Name, Address, Phone, Email Address

CASE NO. 12489823

STATEMENT OF CLAIM

Fulton County Magistrate Court

E-FILEDRC

PRO SE Date: 6/22/2023 11:02 PM

Cathelene Robinson, Clerk

Plaintiff's Attorney, Name, Address, Phone 23MS186065

Suit on Note Suit on Account Contract Tort Trover Personal Injury Other: Unpaid Wages

1. The Court has jurisdiction over the defendant(s) [] the Defendant(s) is a resident of _____ County; Other (please specify) The Registered Agent for the Defendant is based in Fulton County.
2. Plaintiff(s) claims the Defendant(s) is indebted to the Plaintiff(s) as follows (You must include a brief statement giving reasonable notice of the basis for each claim contained in the Statement of Claim): Payment for services provided during the period 6/2 - 6/26/2022 where I was engaged to perform work in advance of planned start/hire date of 6/27/2022.
3. This claim is in the amount of \$ 15000.00, principal \$ _____ interest, plus _____ costs to date, and all future costs of this suit.
4. Please select hearing location: Downtown Courthouse North Annex South Annex
5. I am the Plaintiff Plaintiff's Attorney and I would or would not like to receive text message alerts for upcoming hearing dates for this case? (Standard text message rates from your carrier may apply) Cell Phone # 810-610-5545

STATE OF GEORGIA, FULTON COUNTY

WANDERLYN CHAPPLE

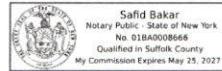
being duly sworn on oath says the foregoing is a just and true statement the amount owing by defendant(s) to plaintiff(s), exclusive of all set-offs and just grounds of defense.
 This electronic notarial act involved a remote online appearance involving the use of communication technology and subscribed before me this

22nd day of June 20 23

Wanderlyn Chapple

Plaintiff(s) or Agent

(If Agent, Title or Capacity)

Safid Bakar

Notary Public/Attesting Official

810-610-5545 wanderlynchapple@aol.com

Plaintiff's Mobile Phone Number & Email Address

NOTICE AND SUMMONS

TO: All Defendant(s) You are hereby notified that the above named Plaintiff(s) has/have made a claim and is requesting judgment against you in the sum shown by the foregoing statement. YOU ARE REQUIRED TO FILE OR PRESENT AN ANSWER (answer forms can be obtained for the above listed web-site or clerk's office) TO THIS CLAIM WITHIN 30 DAYS AFTER SERVICE OF THIS CLAIM UPON YOU. IF YOU DO NOT ANSWER, JUDGMENT BY DEFAULT WILL BE ENTERED AGAINST YOU. YOUR ANSWER MAY BE FILED IN WRITING OR MAY BE GIVEN ORALLY TO THE JUDGE OR CLERK. Answer & Counterclaim forms are available at the Clerk's office and online (magistratefulton.org). Answers & counterclaims should be electronically filed with the Magistrate Court Clerk, either an oral or written answer at room TG100, 185 Central Ave., S.W. Atlanta, Georgia 30303 between 8:30 A.M. and 5:00 P.M. OR electronically at www.odysseyfilega.com (convenience fee applies). If you choose to file your answer orally, YOU MUST COME TO THE COURT IN PERSON within the 30 day period. NO TELEPHONE ANSWERS ARE PERMITTED. The court will hold a hearing on this claim at a time scheduled after your answer is filed. You may come to court with or without an attorney. If you have witnesses, books, receipts, or other writings bearing on this claim, you should bring them to court at the time of your hearing. If you want witnesses or documents subpoenaed, see a staff person in the Clerk's office for assistance. If you have a claim against the Plaintiff(s), you should notify the court by immediately filing a written answer and counterclaim. If you admit to the Plaintiff(s)' claim but need additional time to pay, you must come to the hearing in person and tell the court your financial circumstances. Your answer must be RECEIVED by the clerk within 30 days of the date of service. If you are uncertain whether your answer will timely arrive by mail, file your answer in person at the clerk's office during business hours.

This 6/22/2023 day of June, 2023

Roman Coss
Magistrate Judge or Deputy Clerk

Supporting Documentation: Wanderlyn Chapple v. DEUTZ Corporation, Case #23MS186065

Date 7/6/2023 3:46 AM

Che Alexander, Clerk

23MS186065

Background:

On May 19, 2022, I was contacted about by Raluca Rojneai regarding an HR Director opportunity with DEUTZ Corporation. As Raluca was in the process of exiting the company, my primary point of contact became David Mangan. After completing the interview process, I was extended and accepted an offer of employment on June 13, 2022, for an Exempt HR Director role with a start date of June 27, 2022. Offer Letter shown below.

 <p>DEUTZ Corporation 3883 Steve Reynolds Blvd Norcross, Georgia 30093 U.S.A. Tel: (470) 913-5021 Fax: (770) 564-7276</p> <p>June 13, 2022</p> <p>Wanderlyn Chapple</p> <p>Dear Wanderlyn,</p> <p>DEUTZ Corporation is pleased to offer you the full-time position of Human Resources Director reporting to Christian Vospel-Rueter. This offer is contingent on receiving positive results on your background check and drug screen.</p> <p>Your anticipated start date is June 27, 2022. This is a salaried exempt position with an initial compensation rate of \$170,000.00 annually, paid in bi-weekly installments.</p> <p>Annual Bonus: You are eligible to receive a potential annual bonus of \$30,000.00 as part of the performance-based bonus program. You must be actively employed through the end of the fiscal year to receive any portion of the bonus. Additionally, if you leave DEUTZ after the fiscal year end but prior to the bonus payment, you must provide 2 weeks notice of separation and maintain good standing with DEUTZ to remain eligible for the bonus payment.</p> <p>One-Time Bonus: We are pleased to offer you a one-time bonus of \$15,000.00. This bonus will be paid in one lump sum on your next regularly scheduled pay date after you start employment with DEUTZ Corporation. The signing bonus is taxable, and all regular payroll taxes will be withheld. In the event you leave DEUTZ within 6 months of your date of hire, you will be responsible for reimbursing the company for the entire signing bonus in no later than 90 days from your date of termination.</p> <p>In addition, you will be eligible to participate in our employee benefit programs effective on your date of hire. You will be eligible to participate in our 401k plan during the open enrollment period following your three-month service date with DEUTZ. Your annual PTO allowance will be 27 days (216 hours). In your first year of employment, hours are prorated based on your hire date.</p> <p>REV. 9/07 AG Company</p>	<p>Upon acceptance of this offer, please sign and date a copy of this agreement and return it to us by Wednesday, June 15, 2022. This agreement will expire automatically on that date unless we receive a signed copy per our request.</p> <p>By accepting employment with DEUTZ Corporation, you agree to abide by the policies and practices of the company, including those listed in the Handbook. Under those policies, either DEUTZ Corporation or the employee may terminate the employment relationship at any time, with or without cause. In addition, as an employee of DEUTZ Corporation, you will have access to confidential information about the company's business that is not generally available to the public or in the industry. For more information on your responsibilities regarding confidentiality, please refer to the employee handbook.</p> <p>We look forward to your decision to join our company. If you have any questions, please feel free to contact me at (470) 913-5021. Please e-mail a signed copy of this agreement and return it to me.</p> <p>Sincerely,</p> <p><i>Janique Spain</i> Janique Spain, SHRM-CP Human Resources Manager</p> <p><i>Wanderlyn Chapple</i> Signature</p> <p>6/13/2022 Date</p> <p>wanderlyn chapple Print Name</p>
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Supporting Principles & Regulations:

- **Start/Hire Date**
 - Start date, in its simplest form, is whenever someone starts working. This is the first day an employee can be paid.
- **Fair Labor Standards Act (FLSA)**
 - As long as an exempt **salaried employee works any hours** during a **work period**, they are entitled to their full amount of base pay.
 - An individual is considered a 'newly hired employee' on the first day he or she performs wage earning services.
 - **29 CFR 785.11**. Thus, if an employer knows or has reason to believe an employee is working, even if the time is unauthorized, the employer must pay the employee for the time worked...By statutory definition the term "employ" includes "to suffer or permit to work." Under the Fair Labor Standards Act (FLSA), exempt employees receive a full salary for any week in which they work regardless of the hours or days worked. If an exempt employee does any work, they must be paid for the full day—there is no minimum.
 - An applicant's time spent "working" may become the basis for a Fair Labor Standards Act (FLSA) claim.

Work Conducted

Given the departure of their existing HR Director, the need for immediate assistance, HR vacancies and pending leave, I began receiving work assignments immediately. During the period of 6/2 – 6/26, I was engaged to work on the following:

- **Interview of HR Manager candidate:** This entailed the actual interview along with various emails, texts and calls with David Mangan, Consultant and Janique Spain, HR Manager. Additional evidence available.

(i) Accepted on 6/10/2022 7:32 PM.

Interview w/Neitra Maddox

Organizer	Spain, Janique <Janique.Spain@deutz.com>	Sent	Fri 6/10/2022 7:19 PM
Time	Tuesday, June 14, 2022 12:00 PM-12:45 PM		
Location	Microsoft Teams Meeting		
Response	<input checked="" type="checkbox"/> Accepted Change Response		
Neitra D. Maddox Resume_.pdf View 274 KB			

Good evening,

This will be a virtual interview via teams. Please be camera ready. Feel free to let me know if you need to reschedule or cancel for any reason.

Thank you,

Janique Spain, SHRM-CP
Human Resources Manager
DEUTZ Corporation

- **Performance Management:** I was engaged regarding a Performance Management issue of an HR employee (John Ruby, HR Manager Pendergrass). I was asked for time for me to be briefed on the performance issues and make the decision on the appropriate course of action. This involved emails, texts, and calls with David Mangan. This began around 6/2.
- **Introductory Session:** I was needed to participate in an introductory session Intro Session to get up to speed on the organization and HR Department existing projects, priorities and urgent items. This involved David Mangan.
- **Benefits Implementation:** On 6/14/2022 I was advised that a new vendor, Mutual of Omaha, had been added as an HR vendor and there were 2 new leave benefits being implemented. I was advised that my presence was needed in a variety of meetings. This work assignment including pre and post meeting activity plus a meeting on 6/24 with the vendor and the benefits broker.

Results

	Subject	Location	Start ▲	End
▼ (none): 2 item(s)				
	FW: Deutz Corporation #C4FL Mutual ... Microsoft Teams Me... Thu 6/16/2022 11:00 AM		Thu 6/16/2022 12:00 PM	
	Deutz Corporation #C4FL Mutual of O... Microsoft Teams Me... Fri 6/24/2022 2:00 PM		Fri 6/24/2022 3:00 PM	

- **HR Strategy Session:** Session was virtual and including Janique Spain on 6/13/2022.

(i) Accepted on 6/10/2022 9:43 PM.

HR Strategy Session

Organizer	Spain, Janique <Janique.Spain@deutz.com>	Sent	Fri 6/10/2022 8:43 PM
Time	Monday, June 13, 2022 2:30 PM-3:30 PM		
Location	Microsoft Teams Meeting		
Response	<input checked="" type="checkbox"/> Accepted Change Response		

- **Witnesses who can affirm the details of this claim:** Neitra Maddox, David Mangan, Janique Spain, Mutual of Omaha, A2 Benefits, Christian Vorspel-Rueter, Shawntay Mathews
- Additional Evidence and Supporting Documentation available.

DAMAGES:

- Compensation for work performed 6/2 -6/262003: \$15,000.00
 - @ Consulting Rate

Service	Rate	Dates of Service	Engaged By:	Other Resources & Contacts	Support Documentation
Interview & Onboarding Prep for HR Manager Candidate (N. Maddox)	\$ 2,500.00	6/2/2022 - 6/26/2022	D. Mangan, J. Spain		Email, Phone Records, Calendar Entries
Performance Management (J Ruby)	\$ 2,500.00	6/2/2022 - 6/12/2026	D. Mangan		Email, Text, Phone Records
HR Strategy Session	\$ 2,500.00	6/9/2022 - 6/15/2022	J. Spain		Email, Calendar Entries
HR Introduction/Practice Log	\$ 2,500.00	6/14/2022 - 6/26/2022	D. Mangan		Email, Calendar Entries
Manager Training	\$ 2,500.00	6/10/2022 - 6/26/2022	J. Spain; D. Mangan	D. Brookmire, S. Devine	Email
Mutual of Omaha (MoO) Implementation	\$ 2,500.00	6/14/2022 - 6/26/2022	MoO, a2 Benefits, J. Spain	MoO, a2 Benefits, J. Spain	Email, Calendar Entries
TOTAL	\$ 15,000.00				

- Based upon \$170,000 Annual Salary

Pay Period	
6/2 - 6/4	\$ 3,269.23
6/5 - 6/11	\$ 3,269.23
6/12 - 6/18	\$ 3,269.23
6/19 - 6/25	\$ 3,269.23
SUB TOTAL	\$ 13,076.92
Legal & Filing Fees	\$ 180.00
Other	\$ 1,743.08
TOTAL	\$ 15,000.00

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WANDERLYN CHAPPLE,)
)
Plaintiff,) CIVIL ACTION FILE NO.
)
v.)
)
DEUTZ CORPORATION,)
)
Defendant.)

NOTICE TO PLAINTIFF OF REMOVAL TO FEDERAL COURT

To: Wanderlyn Chapple
2997 Cobb Pkwy SE #725306
Atlanta, GA 31139
wanderlynchapple@aol.com

Notice is hereby given that Defendant DEUTZ Corporation has filed removal papers with the Clerk of the United States District Court for the Northern District of Georgia, Atlanta Division, regarding the above-styled action. Attached to and included with this Notice is **Exhibit 1**, a copy of the Notice of Removal to the federal court (with its accompanying exhibits).

Respectfully submitted this 24th day of July 2023.

**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.**

/s/ David E. Gevertz

David E. Gevertz, Esq.
Georgia Bar No. 292430
3414 Peachtree Road, NE, Suite 1500
Atlanta, Georgia 30326-1164
Phone: 404-221-6512
Fax: 678-406-8816
dgevertz@bakerdonelson.com

*Counsel for Defendant
DEUTZ Corporation*

CERTIFICATE OF SERVICE

I certify that on this date I served a copy of the foregoing *Defendant's Notice of Removal* to Plaintiff via electronic mail and First-Class U.S. Mail, postage prepaid, addressed as follows:

Wanderlyn Chapple
2997 Cobb Pkwy SE #725306
Atlanta, GA 31139
wanderlynchapple@aol.com

Respectfully submitted this 24th day of July 2023.

**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.**

/s/ David E. Gevertz
David E. Gevertz, Esq.
Georgia Bar No. 292430
dgevertz@bakerdonelson.com

*Counsel for Defendant
DEUTZ Corporation*

EXHIBIT C

IN THE MAGISTRATE COURT OF FULTON COUNTY
STATE OF GEORGIA

WANDERLYN CHAPPLE,)
)
Plaintiff,) Civil Action No. 23MS186065
)
v.)
)
DEUTZ CORPORATION,)
)
Defendant.)

NOTICE OF FILING TO THE FULTON COUNTY MAGISTRATE COURT OF
DEFENDANT'S NOTICE OF REMOVAL

TO THE HONORABLE COURT:

PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446, Defendant DEUTZ Corporation has filed removal papers with the Clerk of the United States District Court for the Northern District of Georgia, Atlanta Division, regarding the above-styled action. A copy of the Notice of Removal (without its accompanying exhibits) is attached hereto as **Exhibit 1**. Defendant respectfully requests that the Magistrate Court of Fulton County proceed no further in this action unless and until such time as the action may be remanded by order of the United States District Court for the Northern District of Georgia, Atlanta Division.

Respectfully submitted this 24th day of July 2023.

**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.**

/s/ David E. Gevertz
David E. Gevertz, Esq.
Georgia Bar No. 292430
3414 Peachtree Road, NE, Suite 1500
Atlanta, Georgia 30326-1164
Phone: 404-221-6512
Fax: 678-406-8816
dgevertz@bakerdonelson.com

*Counsel for Defendant
DEUTZ Corporation*

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed a copy of the foregoing *Notice of Filing to the Fulton County Magistrate Court of Defendant's Notice of Removal* with the Clerk of Court using the Court's ECF system which will automatically send notification to all counsel of record.

Additionally, I certify that on this date I served a copy of the foregoing *Notice of Removal* via electronic mail and First-Class U.S. Mail, postage prepaid, addressed as follows:

Wanderlyn Chapple
2997 Cobb Pkwy SE #725306
Atlanta, GA 31139
wanderlynchapple@aol.com

Respectfully submitted this 24th day of July 2023.

**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.**

/s/ David E. Gevertz
David E. Gevertz, Esq.
Georgia Bar No. 292430
dgevertz@bakerdonelson.com

*Counsel for Defendant
DEUTZ Corporation*